

Risky Business: Transit Insurance and Risk Management

March 31, 2022, 2:00-3:30 PM ET

National RTAP
Rural Transit Assistance Program

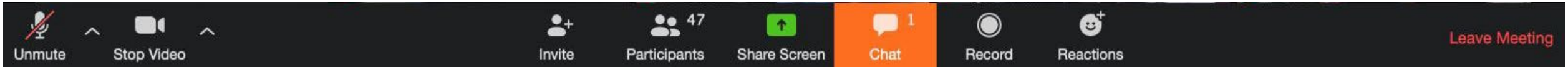
MTAP

FTA
U.S. Department of Transportation
Federal Transit Administration

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- You can ask questions or share comments in the chat throughout the webinar
- During the presentation portion, participants will be muted
- During the Q&A portion, you may raise your hand, and will be called upon to unmute yourself to ask a question or share a comment
- The slides and a recording of the presentation will be posted to our webinars page
- You will receive a brief survey tomorrow to help us improve future webinars

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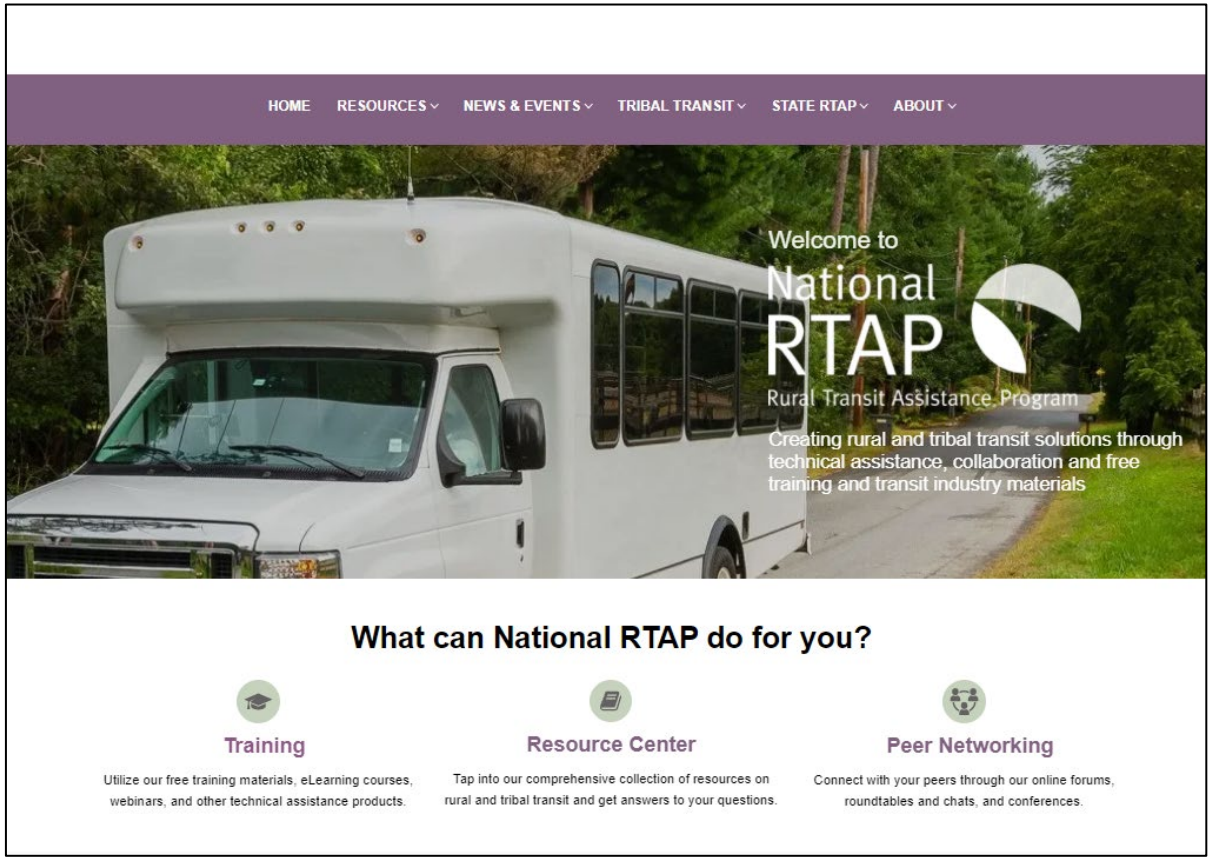
Mute/Unmute and Audio

Chat Box

Raise Hand (in Reactions)

National Rural Transit Assistance Program

- Technical assistance center funded by FTA through the Section 5311 Program
- Provides free training materials and technical assistance to rural and tribal transit providers and State RTAPs
- Review Board – 14 state DOT and rural and tribal transit agency staff from across the country
    - Currently soliciting nominations for new members in 2022-2023. Visit our News page for details and the nomination form.
- Learn more at nationalrtap.org



What is TACL?



http://transportation-tacl.org

The Transportation Technical Assistance Coordination Library (TACL) provides a sustainable methodology and platform for access and findability of rural and tribal transit coordination resources across a diverse range of transportation technical assistance centers and the Federal Transit Administration (FTA).

The FTA-funded technical assistance centers participating in this ongoing work are:

- National Aging and Disability Transportation Center (NADTC)
- National Center for Applied Transit Technology (N-CATT)
- National Center for Mobility Management (NCMM)
- National Rural Transit Assistance Program (National RTAP)
- Shared-Use Mobility Center (SUMC)
- Transit Workforce Center (TWC)

Speakers



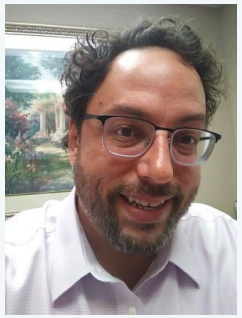
Robin Phillips
Executive Director
National RTAP



Cara Marcus
Resource Center Manager
National RTAP



Richard Price
Associate Program Manager
AASHTO MTAP



Mike Spadafore
Director of Mobility Management
Jayhawk Area Agency on Aging



Jill Nagy
President and Managing Partner
Summers Nagy Law Offices

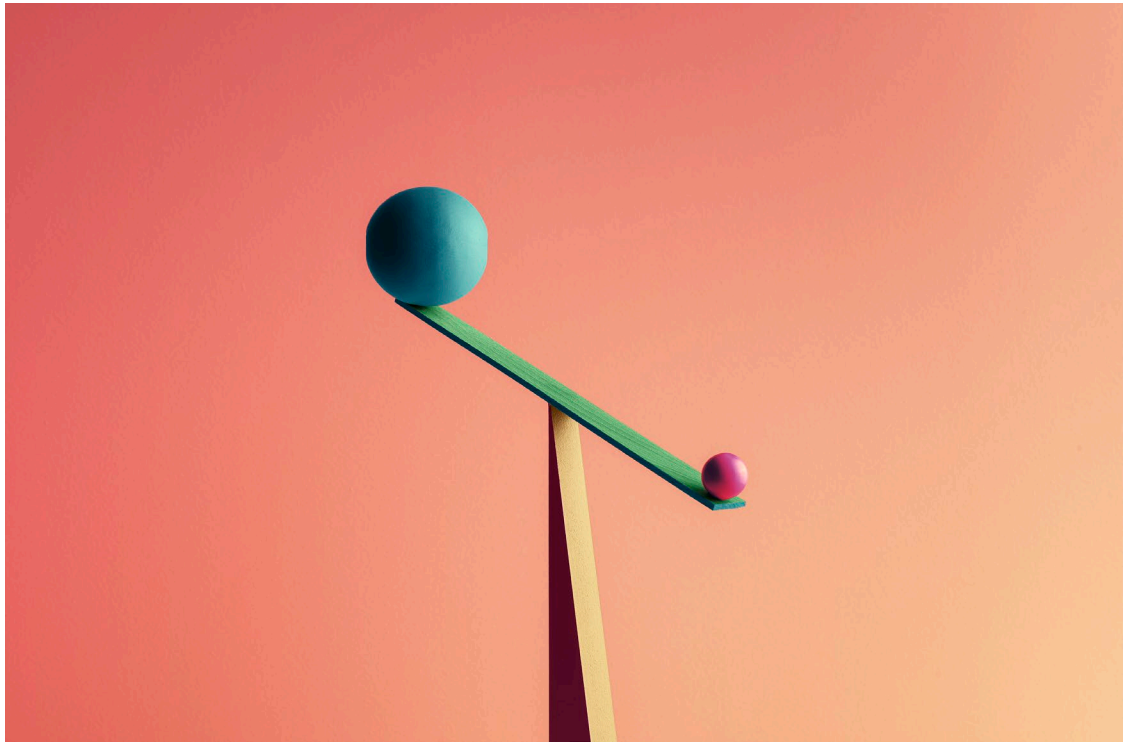


Brenda Schweitzer
Transportation Program Coordinator
City of Sioux Falls



Glen Griffin
Executive Director
Michigan Transit Pool (MTP)

Risk Management for Rural Transit Systems



The National RTAP Technical Brief, Risk Management for Rural Transit Systems, provides guidance to transit managers and answers the following questions:

- What is Risk Management?
- What Does a Risk Management Program Look Like?
- How Can Risk Management Help Your System?
- What are the Six Steps of Risk Management?
- What are the Strategies for Managing Risk?

Thank you to National RTAP Review Board Member Brenda Schweitzer, Transit Program Manager, City of Sioux Falls, for the review of the 2021 update.

https://cloud.nationalrtap.org/Resource-Center/Advanced-Search/fid/20

Insurance and Risk Management Solutions: Risk Retention Pools

Our technical brief on Insurance and Risk Management focuses on the risk management solution that is proven to provide cost benefits and stability for rural transit systems over time: risk retention pools. This brief was updated with new information about transit pools in Michigan, California, and Ohio, and new recommendations for obtaining startup funding.



Thank you to National RTAP Review Board Member Deborah Bach, Rural Transit Programs Supervisor New Mexico Department of Transportation, Transit and Rail Division, for the review of the 2021 update.

https://cloud.nationalrtap.org/Resource-Center/Advanced-Search/fid/3

Emergency Response Procedures - During and After Business Hours



National RTAP's Emergency Response Checklists: During and After Normal Operating Hours define the responsibilities of an Emergency Response Coordinator (ERC) in emergency situations that take place during and after the "normal" workday. These templates are designed to be customized by the user. Our 2021 updates include specific assignments (such as who verifies operable communications infrastructure) and planning for telecommuting staff.

Thank you to National RTAP Review Board Member Laura A. Corff, Transit Director, United Community Action Program, Inc., for reviewing the updates.

During: https://cloud.nationalrtap.org/Resource-Center/Advanced-Search/fid/86

After: https://cloud.nationalrtap.org/Resource-Center/Advanced-Search/fid/87

The HIPAA Rule's Effect on Rural Transit Agencies

National RTAP updated its The Health Insurance Portability and Accountability (HIPAA) Rule's Effect on Rural Transit Agencies technical brief in June 2021. Updates include a case study about how NEMT brokers in one state transmit necessary appointment information and justification for a certain type of non-emergency medical transportation, and guidance on HIPAA regulations during federally declared emergencies.



Thank you to National RTAP Review Board member Angie Jones, District Manager, Grant County Transportation District (People Mover) for reviewing the 2021 tech brief update.

https://cloud.nationalrtap.org/Resource-Library/Advanced-Search/?fid=160

Incident and Injury Report Form



The National RTAP sample Incident and Injury Report Form is designed to be completed in the event of an accident of incident when an injury has occurred. The update included additional individuals who may need to be notified in case of an injury. Like all National RTAP products, it may be altered to suit your agency's needs in any way.

Thank you to National RTAP Review Board Member Paula Smith, Executive Director, Tri River Transit, for reviewing the update.

https://cloud.nationalrtap.org/Resource-Center/Advanced-Search/fid/83

About the AASHTO Council on Public Transportation and the Multi-State Transit Technical Assistance Program



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The Council on Public Transportation

PTC.transportation.org

COUNCIL ON PUBLIC TRANSPORTATION



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What We Do – Our Five Goals

1. Lead and influence national policy related to public transportation
2. Advance public transportation as part of an integrated transportation system
3. Strengthen Council's leadership role within AASHTO and among other national organizations, institutions, and groups with complementary purposes and goals
4. Identify and promote research and develop educational resources to support public transportation providers
5. Work with FTA, public transportation partners and states to promote safety and other vital issues, in support of their delivery of public transportation programs

The Multi-State Transit Technical Assistance Program (MTAP)

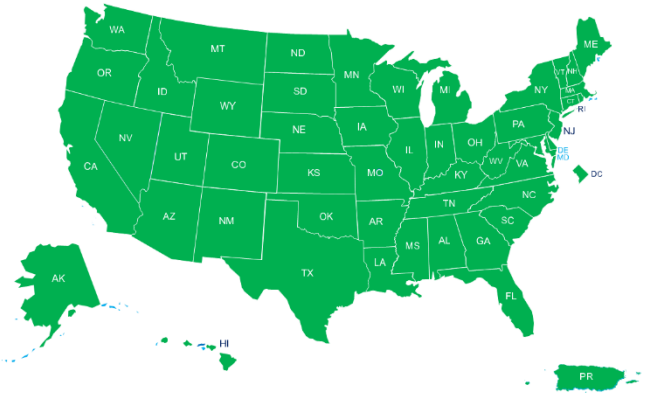
MTAP.transportation.org



MTAP Chair
Don Chartock Washington State DOT

MTAP Vice Chair
Jennifer DeBruhl
Virginia Dept. of Rail and Public Transportation





46-48 State DOT Members Join Annually

What We Do

- ❑ Three in-person **meetings** annually
- ❑ 8-10 online **educational forums and exchanges**
- ❑ Reports and communications, including the **biweekly e-News and biannual newsletters.**
- ❑ Regulatory and legislative matters regarding state transit programs.
- ❑ Transit research projects thru NCHRP

Statewide Insurance Pooling for Public Transit

Mike Spadafore
NCHRP Research Project 23-04 Committee Chair

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Mike Spadafore



- Director of Mobility Management, Jayhawk Area Agency on Aging, Topeka, KS
- Chair, NCHRP 23-04: *Statewide Insurance Pooling for Public Transit*
- 12 years transportation planning experience; former Public Transit Manager, KDOT

- MUPP, University of Illinois at Chicago
- LEED Accredited Professional, USGBC
- BA, Architectural Studies, Judson University
- BA, History through the Arts, Carthage College

A bit about NCHRP 23-04: Statewide Insurance Pooling for Public Transit

National Cooperative Highway Research Program (NCHRP) Project 23-04

Project objective

Review and interview current and past insurance pooling participants, state DOTs, transit providers, and insurance agencies.

Determine the inner workings of pooling and provide a how-to guide for state DOTs to consider.

- Specific to 5307/5311 agencies who are using < 100 rubber tire transit vehicles at peak operations.

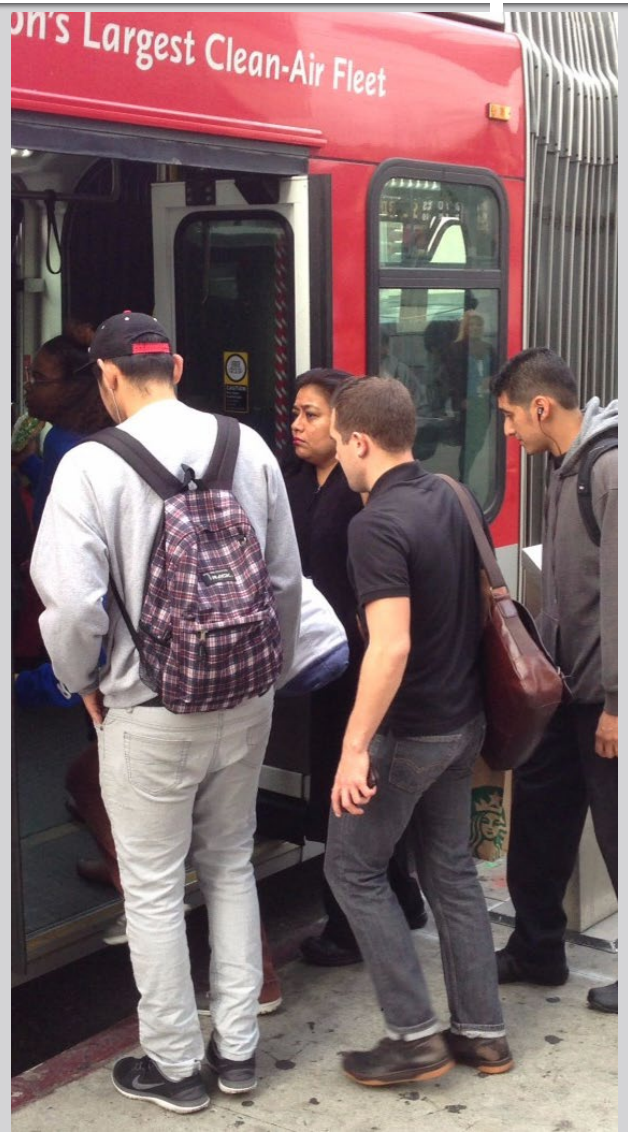


Report + Guidebook



- A SWOT of overall risk management and loss mitigation strategies
- Cost efficiencies based on economies of scale
- Past/current examples
- A guide for those who wish to pursue pooling

Progress report



Apr 2019	Problem statement selected
Oct 2019	Panel appointed
Jan 2020	RFP posted
Mar 2020	Proposals received
May 2020	Contractor selected
Aug 2021	Contract awarded
Oct 2021	Project kick off meeting
Jan 2022	Data collection, surveys, and interviews
May 2022	Review draft docs
Aug 2023	Project complete (*anticipated*)

Our session's panelists:

Jill E. Nagy, Esquire



- President and Managing Partner, Summers Nagy Law Offices, Wyomissing, PA
- Represents more than 20 public transportation providers and associations in Pennsylvania
- BS, University of Pittsburgh
- MA, Kutztown University
- Graduate, Villanova University School of Law

Brenda Schweitzer



- Transportation Program Coordinator, City of Sioux Falls, SD
- 22 years experience in rural transit programs
- Active with local, regional, state, and national transit associations
- Served as a National RTAP Review Board member since 2021

Glen Griffin



- Executive Director, Michigan Transit Pool (May, 2020 – present)
- Licensed multi-line adjuster specializing in litigation management
- Over 30 years of insurance experience (25 of those years with The ASU Group)
- BS in Business Administration/Finance, Central Michigan University

RISKY BUSINESS; RISK MANAGEMENT AND TRANSIT INSURANCE

Presented by: Jill E. Nagy, Esq.

SUMMERS NAGY Law Offices

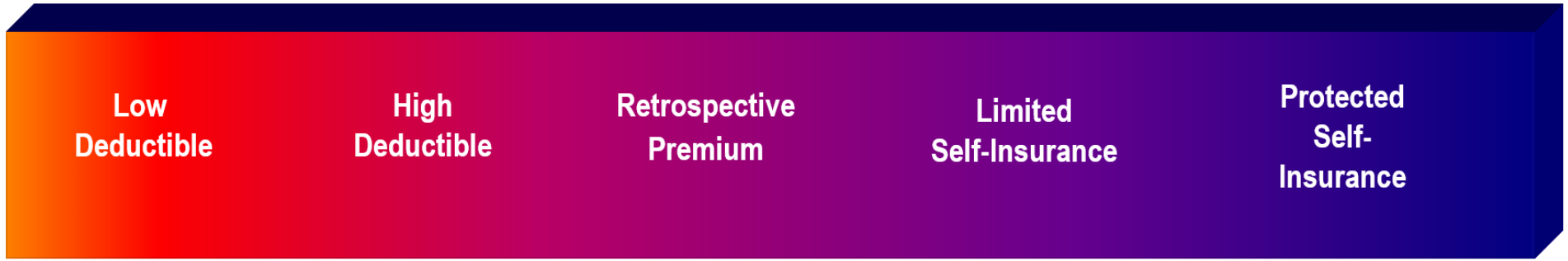
OPTIONS IN THE INSURANCE MARKET

- Traditional Market Coverage Options
- Pooling options for collaborative coverage and shared cost options
- Self-Insurance
- Combination of the above coverage types

OPTIONS IN THE INSURANCE MARKET

Full Insurance → **Excess Insurance/Reinsurnace**

Full Insurance	Excess Insurance/Reinsurnace
Less Control	More Control
More Cost	Less Cost
Less Risk	More Risk
Predictable cost	Unpredictable Cost



Traditional/Standard Market
driven by insurance company

Alternate Market
driven by Insured

TRADITIONAL MARKET V. POOLED LOSS

- Pros and cons to each type of insurance:
- For instance a pool relieves its members from the annual bidding cycle reducing indirect expenses and administrative time and effort.
- In pools you can use leverage for a discount in some instances.
- Pools may involve additional risk for the deeds of others in the group. They're not a cure for management disinterest.
- In any case- proper risk management strategies are a MUST for either scenario.

STATE BY STATE COULD AFFECT OPPORTUNITIES AND COST

- Cost of insurance, risk management objectives and general coverage eligibility may depend on your state and any governmental immunities/governmental status as a transit agency
- State immunity makes transit agencies more attractive to insurers but does NOT lessen risk management initiatives
- Comparative negligence and joint/several liability states also impact the risk that an insurer is willing to withstand

CONSIDERATIONS FOR ANY COVERAGE OPTIONS

- For traditional insurance, there should be a competitive system for obtaining insurance in the open market
- You may use a broker as part of the competitive system to negotiate prices, services and options for your coverage package; consider RFP to select a broker rather than having a marketplace free for all
- You need to determine the type of coverage packages you are looking for to suit your needs (vehicle loss coverage, personal injury, worker's compensation, etc.)

INSURANCE MARKET CONDITIONS

- **2019, 2020 and 2021 were very challenging insurance markets for most buyers**

- **Continued trend of record setting $1B+ Property losses**
  - Underwriters afraid to turn on the Weather Channel
  - Trailing 10 year average natural catastrophes loss has nearly doubled over past decade
  - Wildfires, hurricanes, civil unrest, tornados, Uri, increase in convective storm damage
  - Labor & material cost increases driving up valuations and insurance costs
  - Specific to transit – aggregation of high value vehicles in bus barns for fire or open lot exposed to hail damage

- **Social inflation (the trend of rising insurance costs as a result of increased litigation, plaintiff-friendly judgements and high jury awards) remains a concern, with a particular impact on Commercial Auto, General Liability, and Umbrella/Excess insurance. This trend continues to drive rates up, albeit more moderately than in prior years.**
  - "Big wheels – bad."

- **Threat landscape for Cyber continues to worsen with significant increases in cyber claims frequency & severity driven by ransomware and social engineering. Public sector one of least desirable classes.**

- **There will likely be some significant variation of impact felt by individual insureds by geography, legal jurisdiction, state tort caps/liability limitations and type coverage**

COMPREHENSIVE LIST OF NECESSARY COVERAGES

- Property including Equipment Breakdown
- General Liability
- Law Enforcement Liability (if applicable - e.g., transit police)
- Automobile - Liability & Auto Physical Damage (Comprehensive/Collision)
- Public Officials Errors and Omissions
- Employment Practices Liability
- Cyber
- Fiduciary Liability
- Environmental/Pollution Liability
- Worker's Compensation

ITS NOT JUST ABOUT COST

- Consider the services provided as part of your coverage
  - Crisis Communication
  - Risk Management Support
  - Claims Adjustment Services
  - Settlement Approval Authority
  - Risk Management Requirements
  - Industry Knowledge
  - Construction Criteria
  - Whistleblower hotlines?

RISK MANAGEMENT PROGRAMS

- Some are mandated by carriers and others are required by Pool Leadership
- Many risk management programs that are voluntary result in a savings on premiums.
- Carrot or Stick? In the case of a managed pool, the question is always what is the effect of poor risk management programs and policies? Fines? Increased insurance amounts? Praise among peers?

RISK MANAGEMENT PROGRAM CONTENTS

- Mandatory Policies and Procedures
- Standardized Accident Investigation Processes
- Mandatory Training for Operators, Maintenance and Front Line Supervisors
- Mandatory Hiring Criteria
- Mandatory Insurance and Indemnification Requirements for Contractors

HOW DOES YOUR INSURANCE HELP MANAGE RISK

- Standardized Review of Risk Management Compliance
  - Policy and Implementation Oversight
  - On-Site Visits for Facility Inspections
  - Performance and On-Site Review of Driver Activities
  - Objective Scoring for Risk Management Benchmarks
  - An Oversight Committee for Constant Review of Risk Management Criteria and Objectives



Risk Management for Rural Transit Systems

Brenda Schweitzer
Transit Program Coordinator
City of Sioux Falls, South Dakota

National RTAP
Rural Transit Assistance Program

CITY OF SIOUX FALLS

FTA
U.S. Department of Transportation
Federal Transit Administration

Presenter



Brenda Schweitzer

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Review Board Member
National RTAP

- *Current position with urban transit program*
- *22 Years as a rural transit Executive Director*
- *Previously licensed insurance agent*

What is transportation risk management and why is it important?

Risk management is the process of controlling the chance or possibility of financial, operational, or other loss.

A proactive course of action. The more predictable an event, the less risk is involved.

Protects the system's assets and income by identifying all the possible causes of accidents or losses.

Taking deliberate, planned steps to either prevent or absorb the losses.

Risk management benefits: minimize financial exposure, provide a more reliable, stable system, protect you from negative public publicity, which has a great impact on you.

What are the risks facing the transportation industry today?

- Advancing technology.
- Cyber exposures.
- Operations exposures.
- Market fluctuations – supply chain.
- Natural disasters.

What are the risks facing the transportation industry today?

- Health events.
- Driver shortages/new CDL requirements. Adequate support staff.
- Employee retention and recruitment.
- Regulatory compliance.
- Infrastructure challenges.

What does a risk management program look like and what can we control?

Simply being aware of our exposures and risks is the first step.

You can go through a very intense process to drill down on an action plan or keep your plan of attack simple.

Are you able to implement your plan?

What risk management systems have proven effective?

- Developing system safety programs and policies.
- HR Services - Using new approaches for hiring and screening employees.
- Providing onboarding and refresher driver training.
- Conducting job performance reviews for employees.
- Offering employee incentives for safe job performance.

What risk management systems have proven effective?

Creating passenger safety messages. Involve your transit team.

Developing and implementing vehicle - *maintenance procedures*.

- *reporting procedures.*

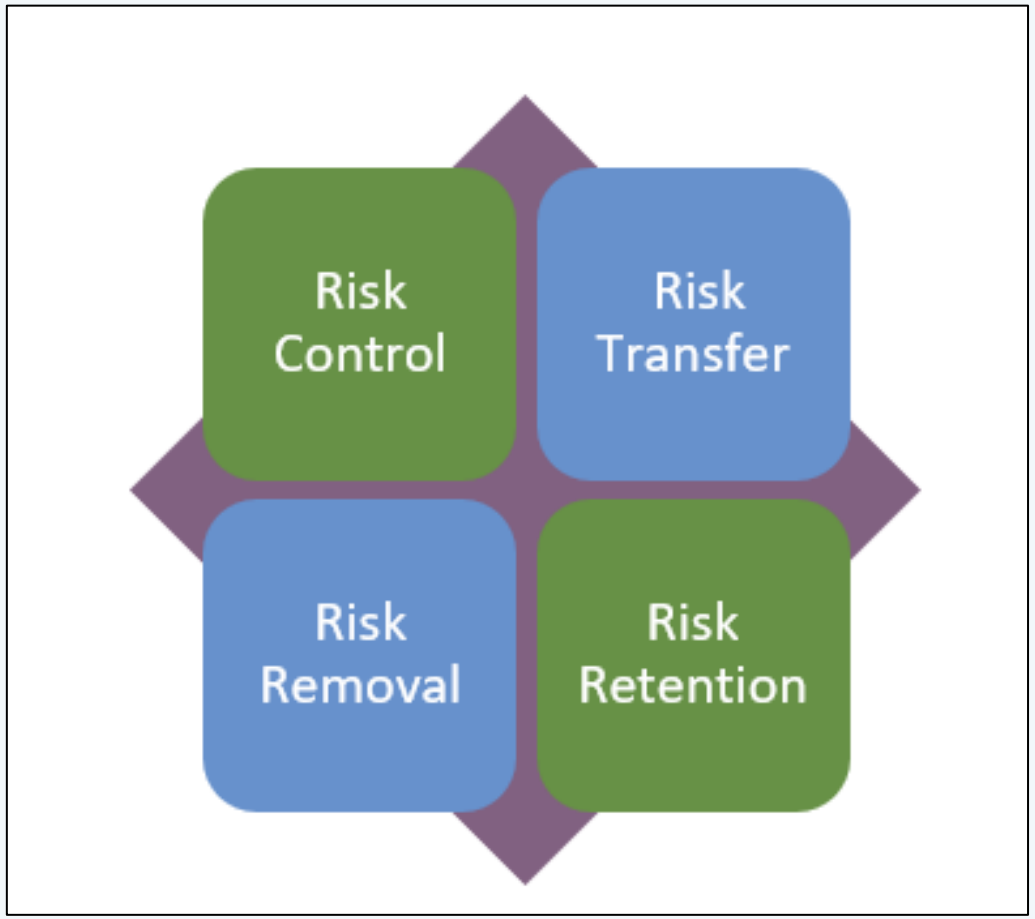
- *toxic waste disposal procedures.*

Using security systems to protect property.

What risk management systems have proven effective?

- Forming insurance pools.
- Having a solid correction and action plan for policy violations.
- Including a Safety Officer position in your organization, if possible, or consider contracting this function out.
- *Each individual transit system needs to determine what will work for their system and what practices are most important and feasible for their system to implement.*
- Capitalize on resources provided by transit associations and your insurance carriers. Potential for insurance credits.

Strategies to Manage Risk



Risk Management: Think beyond finance and safety.



Positive Work Culture can reduce discontented employees.

Work to develop your company's positive work culture.

- Recognition
- Incentives
- Encourage and support volunteerism
- 'Non-sanctioned' social events for anyone interested

Risk Management: Think beyond finance and safety.

A PR Crisis – occurs when negative events or reviews threaten to impact your reputation and position in the community.

- Internally – have policies
- Emergency Management or Operational – Have a policy/plan.
- Be proactive and ready.
- Have company spokesperson designated prior to events.
- Contact leadership team and delegate for damage control as needed.
- Keep statements factual and concise.



Examples of Risk Management exposures or incidents

Inconsistent onboard training – leaves the risk of missing vital information for a new employee. This instance, a driver. This can result in many safety issues and inconsistent service for a passenger. ("John takes my groceries inside".)

Outdated technology – inefficient routing or dispatching system, increase chance for failure (surveillance systems that would protect you), increasing cost to replace, etc.

Valuable Resources

National RTAP's technical brief: Risk Management for Rural Transit Systems
https://cloud.nationalrtap.org/Resource-Center/Advanced-Search/fid/20

FTA's Public Transportation Agency Safety Plan (PTASP)
https://www.transit.dot.gov/PTASP

Riskpulse blog
https://riskpulse.com/blog/

Your current insurance agent/carrier



March 31, 2022

Objective of This Presentation is to:

- Provide a brief overview of the MTP
- Explain the annual Retrospective Adjustment Process

History of the Michigan Transit Pool

- Pool started in 1987 in response to rising insurance rates
- 18 transit systems came together to start the Pool
- We have grown to 33 members and we have added coverages along the way

What is the MTP?

- A self-insurance Pool, organized and governed by an Intergovernmental Agreement.
- Board of Directors is comprised of one representative from each member.
- Day-to-Day operation is overseen by the Executive Committee and conducted by third party administrator The ASU Group. MTP does not have any employees.
- Executive Committee consists of the Officers of the Pool along with five members elected from the Board of Directors.
- MTP is composed of two trust funds: Liability Trust Fund & Direct Property Damage Trust Fund.
- Members can choose to be members of just one coverage fund.

What Does the MTP Provide its Members?

- Liability Trust Fund (LTF) provides Auto Liability including No-Fault PIP, General Liability ~ including Sexual Assault and Molestation, Employment Practices Liability, Public Officials, and Cyber Liability.
- Direct Property Damage Trust Fund (DPDTF) provides Comprehensive & Collision coverage for physical damage to member vehicles.
- Directors & Officers
- Claims handling services and legal defense services for lawsuits brought against the member.
- Excess Insurance – Transit Reinsurance, Ltd. for LTF with 3x$2M. Great American Insurance for the DPDTF above $100,000.
- Risk Management Services – loss control, safety audits, policy handbook, financial assistance for training, regional training and webinars, address emerging safety concerns.
- Semi-annual member newsletter.

Benefits of a Pool

- Broader Coverage – Members decide what is in coverage document known as Memorandum of Coverage (MOC).
- Flexibility – Members can change coverage document upon Board approval.
- Loss Control – MTP Risk Management knows transit.
- Lower Cost – No agent commissions or company profit, refunds of premium deposit in good claim years.
- Stability – MTP premium deposits not subject to cyclic nature of the Market as it's based on PMH (passengers, miles and hours)

Liability Trust Fund

- Member makes a deposit each year
- Members earn interest on deposit and other money in the member's account
- Claims cost up to SIR (self insured retention) charged to the member's account
- SIR tiers: $5,000, $25,000, $50,000, $75,000, $100,000, $125,000
- Cost over SIR is "Risk Shared" by all members based on modified PMH factor
- Administrative costs are allocated to members by PMH factor, Risk Shared costs by modified PMH
- Each year is accounted for separately

Direct Property Damage Trust Fund

- Member makes an annual deposit
- SIR (self insured retention) for all members is $10,000
- Claims cost over SIR is risk shared up to $100,000
- Administrative & risk shared costs are allocated based on the member's fleet net book value
- Each year is accounted for separately

Retrospective Adjustment (Retros)

- At year end we do a reconciliation of revenues and expenses
- If the deposit plus interest earned is more than expenses, you will get a refund
- If your system's expenses exceed your deposit plus interest earned, then you have a retrospective billing
- A year is kept open until all claims have been settled
- This reconciliation process is done for each year that is open
- Following example is for LTF, DPDTF retrospective process is similar

POLICY PERIOD DECEMBER 1, 2019 THROUGH NOVEMBER 30, 2020:		Total
Revenues		
Initial deposits	$	2,110,488
Investment income	$	76,513
Contingency reserve	$	(31,753)
Total Revenues		2,155,248
Expenses		
2019-2020 paid claims as of 11-30-20		54,172
Reserve for injuries and damages		26,704
Risk shared paid claims		-
Risk shared reserves		-
Excess insurance recoveries		-
Incurred but not reported claims		319,079
Other expenses		862,241
Total Expenses		1,262,196
Excess (Deficiency) of Revenues Over Expenses		893,052
Refund Due to Member		(903,935)
Amount Due From Member		10,883

Example Retrospective Adjustment

Timing of Retrospective Adjustments Liability Trust Fund

- November 30 – Retros are calculated as of the policy year end
- Annual audit completed by March 31st
- December 1 of following year members pay retro bill or receive a refund check
- Schedule allows you time to budget for payment of your retro bill or recognize refund in your budget

Timing of Retrospective Adjustments

Direct Property Damage Trust Fund

- November 30 – Retros calculated as of the policy year end – Generally all claims are closed
- Annual audit completed by March 31st
- May of following year at the annual meeting refund checks for the DPDTF are distributed
- December 1 of following year retro bill is due for payment
- Schedule allows you time to budget for payment

The MTP is Not an Insurance Company

"Every dollar you send to the Pool, is your dollar until it is needed for your share of Administrative Expenses, your Direct Claims or your share of Risk Shared Claims."

We thank you for your time and attention!



Q&A



Thank You

National RTAP

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